

SUBJECT TO DEBATE

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PERF's Town Hall Meeting in Denver Focuses on Sanctions Against Officers Who Lie

At PERF's Town Hall Meeting on October 4 in Denver, one of the most interesting topics was how strict police chiefs should be with officers found to have told a lie. Should any lie, even a minor one, result in the officer being fired? If not, where do you draw the line?

During an hour-long session, more than 20 chiefs shared their experiences and offered their opinions about those questions. PERF Executive Director Chuck Wexler moderated. Following are excerpts from the chiefs' remarks:

BOSTON COMMISSIONER ED DAVIS:

Cops Have Been Getting a Pass on Lying for a Long Time

Chuck Wexler: Ed Davis, you recently came out with a tough policy on lying in Boston.

Boston Police Commissioner Ed Davis:

Yes, we said that anyone caught lying in a police report, in testimony in court, or before an Internal Affairs board will be fired. It has been widely publicized in the newspapers, and the union is characterizing it as the most severe and extreme policy in the nation. That's not true, as all of you know. In most police agencies across the country, if someone gets caught lying in a police report or in testimony in court, they're terminated. But in Boston, we have a heavily unionized environment. In the union appeals process, because of rules on "past practices" in the department, I couldn't simply terminate officers who lied; I could only give long suspensions. So I needed to make this statement outlining a new policy.

In the last three years since I have been in Boston, there have been several officers found guilty of lying in Internal Affairs investigations—sometimes for things as minor as letting someone park somewhere they shouldn't. "Did you let that person park there?" "No, I didn't." And they look at the videotape, and see that yes, he did.

Now, where do I assign the officers who lied to Internal Affairs? Because of Giglio motions [requiring prosecutors to provide defense



attorneys with any information that impeaches the credibility of a police officer or other prosecution witness], the veracity of the officer is critical. I cannot put those 10 officers anywhere where they may end up testifying in court.

It's ironic; I can terminate someone for smoking on duty, and I can terminate somebody for not having a valid Massachusetts driver's license. But I could not fire somebody for lying. So because of all this history, I made a strong statement about lying.

Wexler: Are there big lies and small lies? Or are all lies created equal?

Commissioner Davis: No, they're not all equal. People lie every day. "How do you feel?" "I feel great." Maybe I *don't* feel great, but I don't want to get into it. The lying I'm talking about is in police reports, in testimony, or before an Internal Affairs board. If you lie in a police report, you are lying on something that could end up in court, so in my opinion it's a precursor to perjury. It just makes sense to have this policy.

Wexler: But you're running against a fundamental part of the police culture, aren't you? People take care of each other. Ten people write a report about an incident, and usually the reports all look the same. If one person doesn't write it the same way, it puts everybody in jeopardy.

Commissioner Davis: If we have a system in which there's a wink and a nod about Internal Affairs investigations and it's only when something gets to the grand jury that it's considered serious enough that you have to tell the truth, if that's the perception of our officers and our union attorneys, that's a serious problem that has to be addressed.

Wexler: Do officers get a second chance?

Commissioner Davis: No. In the circumstances I've cited, the presumptive punishment in the Boston Police Department will be termination.

ST. LOUIS CHIEF DAN ISOM:

We're Telling Supervisors: Don't Cover for Officers

St. Louis Chief of Police Dan Isom: I've been chief for about a year now, and we've also taken an aggressive stand on no-tolerance-for-lying. Over the last year we've terminated several people for lying in police reports and in search warrants. And we've had a considerable amount of push-back from officers. There's this culture in the Police Department that says "you're going to prevent us from doing real police work." But we have said that if you lie in an official document, you will be fired.

We do struggle with the question, are all lies the same? But our system is based on the truthfulness of our officers. If people can't depend upon us standing up in court and being truthful, our whole system collapses.

Wexler: How do you deal with the situation where there are a number of officers involved in an incident, and they all get together and concoct a story before anyone writes a report?

Chief Isom: I think that the tide has started to turn in the St. Louis Police Department. We've had a couple cases where one officer will make a statement about what was written in a report, and then three other officers will come in and say, "No, it didn't happen like that." Our challenge is to deal with the culture that has been tacitly accepted for years, and to tell the supervisors and the commanders that there is a change in how we are going to be doing law enforcement. We're working very aggressively to get that message out to our sergeants, lieutenants, and captains, that we do not want them to cover for the officers. Covering for them is not in the best interest of the department and law enforcement. We have had sergeants' symposiums, lieutenants' symposiums, and commanders' symposiums where we talk about this issue of truthfulness.



NASHVILLE CHIEF RON SERPAS:

Our Officers Realize Lying For a Colleague Puts Them at Risk

Nashville Chief Ron Serpas: I inherited a "You lie, you die" policy when I became chief of the Washington State Patrol in 2001, and when I became chief in Nashville in 2004, we put that policy in place. I think an important question is *when* do officers have to tell the truth—from the very beginning, or only when they speak to Internal Affairs? Our position has always been, if you are asked any question



regarding the performance of your duty, you must always tell the truth—the full truth.

We've investigated several truthfulness cases in Nashville, and we've seen examples where the union attorneys are still giving tremendously bad advice. They're telling the officers, "Hedge the truth; don't tell all the truth when you first talk to a supervisor. Wait until they get you in front of Internal Affairs to tell everything; or, after you are confronted with evidence that clearly points out you've been untruthful, ask or demand the opportunity to 'restate' your position." But our message is that you have to tell the truth at every juncture. You can't wait until you get into a formal inquiry, or *after* the statements you have made have been proven to be untrue, before you tell the truth.

With "you lie, you die," we have an antiseptic that's actually working in Nashville. The thin blue veil has been lifted, because officers look at each other and figure, "If I lie to protect someone else, I'm going to get fired." So we're seeing more people coming forward and telling the truth early on.

ATLANTA CHIEF RICHARD PENNINGTON:

I Could Not Believe a 92-Year-Old Lady Was a Drug Dealer

Atlanta Chief Richard Pennington: When I took over the Atlanta Police Department in 2002, officers could tell a lie and the only punishment was oral admonishment for first offense. When I took over, I said, "Anyone who tells a lie from this day forward will be terminated." I had to give them ample notice of the change in policy through civil service. I terminated about 15 people, including a major, two lieutenants, a couple sergeants, because they encouraged officers to lie. But after a while, the number of incidents of lying went down. Once you start to enforce it, people get the message.

We had an incident where police killed a 92-year-old lady in a drug case, and all the officers lied about it. The officers made up a story, said they had a justified search warrant, but they didn't. They planted drugs in the lady's house. I just didn't believe the story, that a 92-year-old lady would be selling drugs. So I turned it over to the FBI and asked them to investigate it.

Wexler: You had issues with your own guys and you brought in the FBI. What did your officers think of that?

Chief Pennington: At the time, even my supervisors did not agree with me that I should turn it over to the FBI. But the problem was, I just didn't believe them. That story just didn't make sense to me. No one would believe that a 92-year-old lady would be selling drugs. I had an opportunity to talk to the major, the deputy chief, but because the officers had such good reputations for making arrests and building drug cases, everyone believed the story. I just didn't believe it. And the public didn't believe it either; the community was outraged. All four of the officers were convicted and sentenced in the federal court system.



**PASADENA CHIEF
BERNARD MELEKIAN:**

The Public No Longer Presumes that Police Tell the Truth

(Note: One day after the PERF Town Hall Meeting, Attorney General Eric Holder announced that Chief Bernard Melekian will be the new director of the Justice Department's Office of Community Oriented Policing Services.)

Chief Barney Melekian: I think the challenges come in two areas. One is the degree—how serious is the lie? And the more difficult question is what to do with the officer who starts down the wrong road, but catches himself and wants to come back and make it right.

Wexler: You're talking about the officer who makes a mistake on Thursday, but then can't sleep all night and comes back Friday and says, "I didn't tell the truth."

Chief Melekian: What we try to decide is, Did you really stay up all night and worry about it because your conscience was bothering you, or did you just figure out that the lie wouldn't hold up and you were going to get caught? That can be hard to figure out.

Commissioner Ed Davis: If I could just clarify one point. I've done a lot of research on this issue, I've talked to federal and state judges, and if you look at the federal statute on testimony before the grand jury, there is a clause in that statute saying that if you return to the grand jury within a reasonable period of time to correct the record, you cannot be prosecuted for perjury. So there is precedent in the law for situations where someone thinks about what they said and wants to go back and correct the record.

Chief Melekian: I've been in this business quite a while, and I can remember the first time as a young officer that I went to Internal Affairs, and on the wall behind the IA lieutenant was a sign saying, "Why should I believe you, when I know that I'd lie if I were sitting where you are?" That was the mentality back then, and I think in many ways that was the mentality of the business.

Ironically, even though police departments may have become more strict about lying than they were in the past, the public's perception of officers' truthfulness has gone in the opposite direction, Chief Melekian said:

Chief Melekian: One of the things I've seen in my tenure is that the public's default position 30 years ago was that the officer must be telling the truth. I think that today, the public's default position very often is that we are *not* telling the truth. So that increases our obligation to make sure that we do put these kinds of practices in place and that we do make it clear that adherence to the truth and integrity are a big part of our business.

**AURORA, COLORADO CHIEF
DAN OATES:**

I Had to Say "No More Leniency in Minor Cases"

Wexler: Dan Oates, you've served in New York, in Ann Arbor, Michigan,



and now in Aurora, Colorado. Did all of these departments have similar policies?

Chief Dan Oates: The last two departments, Ann Arbor and Aurora, have made more of a claim that lying will result in the ultimate sanction, termination. But I've found that in all three departments, that's not quite true.

I think it's a very complex issue. Aurora sits in three different counties, and we're wrestling now with one district attorney who has such an absolute rule about lying that it's not practical. I've had cases in my four years here where an officer lied to a supervisor, was caught in the lie, and immediately 'fessed up and fell on his sword. The lie wasn't in a police report; it wasn't in Internal Affairs. So I took the position, based on the contrition and remorse that were expressed, that a hefty suspension instead of termination was a legitimate solution.

But one of my local prosecutors doesn't want to sponsor the testimony of the officers I have who are in this position; I have a handful of them. So I have had to struggle with the repercussions of that. And as a result, I've made it clear to everyone in my organization now that if this happens again, any lie of any sort, there will be no compassion on my part in the future.

Another consideration is that I have the liberty here in Colorado to support that strict position. Back in Ann Arbor, I wouldn't have had a prayer, under past-practice rules and the labor laws in Michigan. And I sympathize with the folks who come from that kind of environment, where it's difficult to deal with lying because of past practices by prior chiefs.

**MONTGOMERY COUNTY, MD. CHIEF
TOM MANGER:**

I'm Tired of Hiding Liars I Can't Fire

Montgomery County, Maryland Chief Tom Manger:

On this issue of officers' credibility in court, when I came to Montgomery County six years ago from another department, there was a notorious "Liars List" that people talked about, a list of officers who were still in the department but who had a sustained charge of untruthfulness against them. They had been placed in different locations in the department where they wouldn't ever have to testify in court. Basically we hid them away.

Since I've been in Montgomery County, several officers have been fired for lying, while others have been found guilty of lying but have had my dismissal recommendation overturned on appeal.

So I have an officer who had a sustained lying charge, and my recommendation to terminate employment was overturned. The officer was given a suspension and is now back on duty. So the discussion became, Where do we put this officer? And I did something that was a little counterintuitive. I said, put that officer right back to the assignment they had, a patrol assignment in one of the district stations. My feeling was that we could not continue to place officers in non-operational positions. Everyone said, "What happens if the officer has to go to court?" And I said, "They'll have to deal with the consequences." "Hiding" the officer hides the issue. When the District Attorney has to disclose to every defense attorney that this



officer has a sustained lying charge, the officer will have to deal with the consequences. I know it's a risk. If the officer loses a speeding ticket, nobody's going to lose any sleep, but what if this officer is the first on the scene of a more serious crime? But I can't continue to hide these folks. We just don't have the resources to that.

Retired Chief Darrel Stephens: Regarding Tom's experience putting the person back on the street, I did that in Charlotte a couple times. I had an officer who was convicted of perjury, but the civil service board didn't see it as a "big lie"; they considered it a little lie. Don't ask me to explain that, but anyhow they sent him back.

So I said, "OK, he's on the street." The next time he went to court, the prosecutor said, "We're not going to let this guy testify." So then we fired him again, this time for failure to meet the essential requirements of the job, and the civil service board upheld it that time. So we were successful.

I think a lot of us have struggled with the question of what to do with these people, when you have done what you think is the right thing to do and fired them, but they are sent back to your department. I don't think Tom's idea is a bad idea, and it puts the pressure where it should rightfully lie, with these civil service boards and arbitrators.



PHILADELPHIA COMMISSIONER CHARLES RAMSEY:

How Hard Are We Really Seeking the Truth?

Wexler: Chuck Ramsey, you're commissioner in Philadelphia, and before that you served in Chicago and as chief in Washington, D.C. What have you seen in those three departments?

Philadelphia Commissioner Charles Ramsey: I've seen some cases where the charge of making false statements has been misused. I've seen cases where an officer makes an error in something relatively minor that has no bearing on the outcome of the case, and they get hit with a false-statement charge. In many cases, in my opinion, that can be a mistake.

I agree that if we want to have honesty among our police officers, we have to create a culture where integrity actually matters. But I don't know how hard we actually look for the truth. It's easy when you've got a high-profile case to talk about perjury. But what about the officer who is a "good officer" who makes a lot of gun pinches? You read his reports, and it seems like he's the luckiest guy in the world. He stops a car, and time after time he sees the butt of a gun sticking out from underneath the seat of the car. So he's got the justification to search the car and seize the weapon.

I was a fairly good police officer and made a lot of arrests. But I can only remember one time where I made a stop and the butt of a gun was sticking out from under the seat. It just doesn't happen every day. Yet we've got some people who have incredible luck, because they rarely stop a car where they *don't* find a gun. [laughter]



And the sergeant signs it, the lieutenant signs it, and the captain gives him a department commendation. So how hard are we seeking the truth here?

It's easy to talk about honesty with the big beefs, but what about the minor beefs that never reach the chief's desk, like verbal abuse? The citizen says, "The officer swore at me." The officer says, "No, I didn't." One against one, you take the officer's word, it's not sustained. But you look at the officer's history and he's got 10 non-sustained beefs for the same thing, coming from different people. It's not likely that they're all lying. We're almost saying it's OK. If you want integrity to matter, you've got to create an environment in which the standard is there and it starts with the small stuff as well as the bigger stuff. And I don't think that really happens.

Or look at use of force. You get an officer who testifies that another officer used too much force, and I guarantee you they've got a hard road to go in that locker room. There's a subculture here.

Look at your academy training and in-service training on ethics and integrity. How much time do we spend, using case studies of officers who got in trouble for a variety of issues? You can't do it in the academy for a rookie and expect that it's going to last 30 years! You have to give booster shots. You need to constantly reinforce values if you expect people to conduct themselves in a manner consistent with those values. And I think we fall short, or at least the department I'm in now, we fall short in that area, and the two other departments I was in, we fell short in that area. We need to support officers when they come forward to report problems, rather than just moving them to another district and hiding them somewhere because they gave information about another officer and you don't want them to have a problem because of it.

Chief Pennington: On the use of force issue that Chuck just mentioned—for about 30 years I've had a bitter taste in my mouth about something that happened to me when I was a young patrolman in Washington, D.C. I remember quite vividly being in the station house, and there was a young officer who had arrested a burglary suspect. I heard some commotion and I looked around a corner, and saw that the burglary suspect was handcuffed. And I saw this officer push him down a flight of stairs. I went to the sergeant to report it, and the sergeant said, "You really didn't see that." I said, "What do you mean I didn't see it?" He said, "This is one of our best officers and you did not see it happen." Later, a lieutenant came to me and asked about it, and I told him what I saw. And he said the same thing: "You really didn't see that." I stuck to my story, but they ostracized me in the precinct, and nobody wanted to ride with me anymore. This officer ended up quitting; he did resign. But because I stuck to my story, they turned against me in the precinct.

Spokane Chief Anne Kirkpatrick Defines Significant Lies As (1) Deceitful and (2) Material to the Working of the Department

Spokane, Washington Chief Anne Kirkpatrick: I've been a chief in three agencies and I've



also been an attorney for 20 years. I've never lost a lying case, and I've terminated quite a few people for it. We approach it real simply. You lie, you die, and there won't be a second chance; the first time, you're gone. That begins to set the culture.

But we have two elements that we have to meet. First, you have to prove that the lie was deceitful. The second element is, "Is the lie material to the working of the department?" That's how you separate the big lies from the little lies. I have found that if you can prove those two things, the union lawyers serve the person up.

And one other thing I would mention is that if you don't have a policy on "lack of forthrightness" as well as lying, you're going to have problems.

RETIRED CHIEF BOB OLSON:

Little Lies Are Like Broken Windows

Wexler: Bob Olson, you've been in Omaha, Yonkers, Corpus Christi, Minneapolis, Jamaica, Ireland, and now you're working in Chicago on violence against students. Whew! What is your take on all this?

Retired Chief Robert Olson: I just have a couple quick comments. The discussion of little lies and big lies? Think about Broken Windows—if you take care of the little things, the big things are less likely to happen. I think that's true about lying.

And what Chief Kirkpatrick said about lack of truthfulness, I think we should really be looking at our policies and how we address this, because the union lawyers tell officers, "If they don't ask you about something, don't tell them." I think that if someone doesn't tell what they know, that's as bad as lying.



WHITE PLAINS, N.Y. COMMISSIONER FRANK STRAUB:

Sergeants Are Critical to Dealing with Lying

White Plains, N.Y. Commissioner Frank Straub: One of the things that's missing is self-policing at the ground level. There's a tendency to push everything up to the top, so that the people at the sergeant and lieutenant rank, especially the sergeant rank, don't have to own the problem, and they don't have to correct it.

For us, the sergeants are the critical component. They're the mentors; they're the people who can take a minor disciplinary problem and turn it into a learning experience. So in White Plains I'm trying to focus on the sergeants and cultivate them as leaders in this process.



NORTH CHARLESTON CHIEF JON ZUMALT:

I Ask My State Board To Decertify Lying Officers

Wexler: Jon Zumalt, you're chief in North Charleston, which has been challenged with a lot of homicides. You have dealt with this issue. How did you handle it?

North Charleston, S.C. Chief Jon Zumalt: Chuck Ramsey captured this about as well as it can be captured. When I got to North Charleston, there were quite a few things that had been covered up and hadn't been dealt with. I'm a pretty tough chief; I fired 50-plus officers out of a 325-person department, some of them for lying. I'm not proud of that, but I had to go in and clean it up.

My fundamental filter for making decisions on this is that we've got to gain the trust of the people we serve.

I also send a letter to the state certifying board when I have an officer I've sustained for untruthfulness. I ask that they decertify the officer in our state. That's how far I go through with it, to really hold them to account.



TORONTO CHIEF BILL BLAIR:

Lying Officers Cost Us Big Money—and Our Credibility

Wexler: Bill Blair, you're chief in Toronto and also head of the Canadian police chiefs' association. Do you go back home and thank God you're back in Canada? Does all this sound like Mars and Venus to you?

Toronto Chief William Blair: No, it's Mars and Mars. The situation in Canada is no different from what you're speaking of. We've had lots of situations where officers have lied, and it has cost us dearly.

And it's not just a question of lying; it's also about failing to tell the truth. What we find so often in cases where an officer or a group of officers are engaged in inappropriate or even illegal behavior, there is a reluctance in our policing culture to report it. People simply don't tell. They avoid it, they stay out of it, they don't have the courage to step forward.

And it's costing us. Ten or 15 years ago, a police officer in a court of law was unassailable. But today, our courts are beginning to perceive that officers are "testilying." The police officers are no longer being believed, and we are losing some very important cases because of it.

We've got a case right now of a drug team who were heroes in the organization—they made the most arrests, they seized the most drugs, the most money, the most guns. They were being promoted rapidly. But complaints began coming in on them that were remarkably similar, about stealing money, using inadequate search warrants, doing all sorts of inappropriate things. That investigation has cost our organization probably \$10 million. And it has cost us, more importantly, our credibility in the courts and with our community.



The Canadian Association of Chiefs of Police, our ethics committee, has tried to take steps to deal with this. We are currently undertaking a nationwide survey of police officers. In addition to the many ethical and integrity questions we are putting to them, there are several questions that ask very specifically, “If [a certain thing] was going on in your department, if you saw a police officer doing these things, what do you think the appropriate punishment should be? And what do you think the actual punishment *would* be? And would you turn the guy in?” I think this is an important study.

MILWAUKEE CHIEF EDWARD FLYNN:

A Culture of Truth Starts with Officers

Milwaukee Chief Edward Flynn: I think it’s important to understand the centrality of police culture to any organizational change you want to make. Every one of us who has come in to a department from outside has to get a sense of what a department’s culture and history are before we can make the kind of changes that will be experienced in a way that’s consistent with their past but also challenges it.

I think that Chief Kirkpatrick made a good point, that you need a material standard to distinguish between “The dog ate my homework” and “I didn’t see my partner beat up the guy and knock out his teeth.”

Some have spoken about building a cohesive culture of supervisors, to help ensure that sergeants and lieutenants can support each other when they have to make tough decisions about officers who have lied about something. I also think we have to recognize how essential dispersed leadership is in police organizations. We need to recognize that leadership is exercised at every level and that misconduct is most frequently prevented by the peer group, rather than by a supervisor who gets there afterwards.

I think that one of the challenges for us is accepting the notion that the entry-level rank in our business is “police officer,” not “private.” It’s unfortunate we have sergeants, because it creates the myth of a noncommissioned officer. *All* of our officers are commissioned officers; all of them potentially could be a chief someday. Our officers are more like a second lieutenant in the Army or Marines than a private.

We’ve got to recognize that some of the most essential culture-setting takes place in the locker room without a boss there. Culture starts at the bottom; supervision starts at the bottom; and misconduct prevention starts at the bottom.



PHOENIX CHIEF JACK HARRIS:

Arizona POST Board Had to Soften Its Absolute Rule

Phoenix Chief Jack Harris: Several years ago, our Arizona POST board decided that they were going to make a very



clear black-and-white line that if you lie, no matter when you lie and no matter what the lie is, you’ll be terminated. And in Arizona, the POST board does have the authority to decertify a police officer for violating their rules of conduct or ethics.

But we found over several years of trying to have that very clear line that sometimes you simply won’t get that termination upheld by a civil service board or court of law. So we’ve been looking at injecting some “common sense” into it, and defining that line of common sense.

I think you do have to have some common sense. When officers are interviewed, we understand they have human qualities and on occasion, it may take several interviews. We give each employee a benefit of the doubt to tell the truth and to set them up for success during any interviews. I expect the truth. What the Arizona POST board ended up doing was saying, “If you lie in an Internal Affairs investigation *after you’ve been warned*, then you’re gone.” And they’ve been very steady in upholding that. I agree that if you’re lying to Internal Affairs, lying in a report, or perjuring yourself in court, you’re gone, and I don’t think there’s going to be any difficulty in getting that upheld by Arizona POST. And even if it does get overturned, I still want to send that signal to the troops, and I’m still going to want to terminate that officer.

The one piece of advice I would give is that if your POST Board does not have that authority to decertify an officer statewide, see what you have to do to get that authority. They’re completely objective; they represent the law enforcement for your state.

SAN DIEGO CHIEF WILLIAM LANSDOWNE:

Don’t Make More Trouble Than You Need In Minor Cases

San Diego Chief William Lansdowne: I’ve learned that there are three types of mistakes that people make in this business.

There’s the mistake of the heart—the officer is confused, but meant to do the right thing, so discipline is light. There’s the mistake of training, where it’s my fault as chief; I didn’t give them the training or skills they needed to handle complex, difficult circumstances. But if it’s a malicious mistake, where they clearly understand what the rules of engagement are and they choose to violate that, that’s when you come down on them harshly.

I think we need to create an environment where truthfulness is encouraged. I also think we all ought to take a look back and remember when we were young officers. If you’re a new officer and you commit a minor violation, you have a tendency to get confused when you go before the Internal Affairs unit. You’ve got a lieutenant, a sergeant, everyone looking down at you, they’ve got 20 years of experience, and you’re afraid of the discipline or what the response will be. I think we’ve got to clean up that process a bit. We need to work with the unions and with everybody in the organization on it.

When you have an officer who lies about something very minor, and you have proof that he lied, I think it’s a mistake to



bring the officer in and let him go down that primrose path of not telling the truth—and *then* tell him you have proof that he's lying. I think if you do that, you just create more of a problem than you need.

What I've always done in those cases, if I have proof of a small lie, is sit down with the union and tell them what I've got, and say, "You do what you want, bring in an attorney if you want, but we can settle this now." And I've settled cases before the officer even comes in. I get a very truthful, upfront response and it doesn't end up going to Civil Service, because if they believe that your system is fair and straightforward and they clearly understand the rules, I don't think you get involved in these unnecessary conflicts.

Wexler: Bill, you've been chief in Richmond, California; in San Jose; and in San Diego. Are all those departments the same on this? And how do you get the word out as to how you're going to handle these cases?

Chief Lansdowne: They're not all the same, and it's very clear that the chief sets the standard. There are some gray areas in this process, but the officers need to understand that you are the chief. You can't be father confessor to the organization. They've got to have a little fear of you as the person who runs the organization, and understand that your decision is final.

And they have to know that you're going to follow the rules yourself and expect that your command staff will follow the rules you have disseminated, because as chief you're the one who is held accountable to the public. When something happens, as chief you've got to be able to go out and address the news media and the public, and speak from the heart and defend what you do, because our integrity is everything in this business.

MIAMI CHIEF JOHN TIMONEY:

Some Cases Are Tough Judgment Calls

Miami Chief John Timoney: This lying issue arose when Bill Bratton was Commissioner in New York. There were prosecutors and judges who accused the police



on a regular basis of shading their testimony. The term that was used was "testilying." And so Bill sent a letter to all the judges and DAs saying, "If you could give us any instance, we'd be more than happy to prosecute the cops." And we got not one response. So obviously, if there was "testilying" and shading of testimony, it was being done with a wink and a nod from the DAs and the judges.

In any event, this has become a big issue in policing over the last decade. Of all the speakers so far, the one I think I agree with most is my friend Bill Lansdowne, because I think there is no perfect way to create rules that will cover all of the situations that come up.

I just had an incident a couple months ago where two young officers got involved in a brawl in front of a nightclub. They did everything right; one of the officers got smacked around, and they responded with necessary force to make an arrest. It was no big deal, just a common arrest.

However, on the arrest report, they did not check off the box indicating they had used necessary force, which would have required another form to be prepared. They just didn't do it, out of sheer laziness. They wanted to go home; it was 2 o'clock in the morning.

So the guy who was arrested made a complaint saying the cops had roughed him up. The cops denied it, but there were other citizens there who were in the brawl, and it looked like the officers had in fact used necessary force. But when it went to Internal Affairs, they denied it.

When it came to me, I said, "No problem. Go over to the DA and draw up an arrest warrant." About a day later, the police officers and their lawyers went to my deputy Frank Fernandez and said, "Can we get a second chance?" That was no problem for me. I said, "Go ahead and tell the truth now, the way you should have the first time." They both got suspended for two or three months, but they weren't arrested. This is the classic case of the cover-up being worse than the crime. The officers got some bad advice, got in a lot of trouble, and almost got arrested.

The point is that you can create bright lines to say what will get you fired, and most of the time they will work, but about 10 or 15 percent of the time, it's just a difficult call and you have to use your experience and best judgment.



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